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and the Executive Secretary, shall determine what information and data to include in each Report.

**ARTICLE XIV. APPROVAL, AMENDMENT, AND PUBLICATION OF BYLAWS**

The approval and amendment of these bylaws shall require the affirmative vote of at least four of the ISCAP's members. In accordance with the Order, the Executive Secretary shall submit the approved bylaws and their amendments for publication in the FEDERAL REGISTER.

[69 FR 17053, Apr. 1, 2004]

**PART 2002—GENERAL GUIDELINES FOR SYSTEMATIC DECLASSIFICATION REVIEW OF FOREIGN GOVERNMENT INFORMATION**

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AUTHORITY: Sec. 3.3, E.O. 12356, 47 FR 14874, April 6, 1982.

SOURCE: 48 FR 4402, Jan. 31, 1983, unless otherwise noted.

**§ 2002.1 Purpose.**

These general guidelines for the systematic declassification review of foreign government information have been developed in accordance with the provisions of section 3.3 of Executive Order 12356, "National Security Information," and § 2001.31 of Information Security Oversight Office Directive No. 1. All foreign government information that has been incorporated into the permanently valuable records of the United States Government and that has been accessioned into the National Archives of the United States shall be systematically reviewed for declassification by the Archivist of the United States. Declassification reviews shall be conducted in accordance with the provisions of these general guidelines or, if available, in accordance with specific systematic review guidelines for foreign government information provided by the agency heads who have declassification authority over

that information. All foreign government information—

(a) Not identified in § 2002.6 of these general guidelines or in specific agency guidelines as requiring item-by-item declassification review and final determination by an agency declassification authority, and

(b) For which a prior declassification date has not been established, shall be declassified as that information becomes thirty years old.

**§ 2002.2 Definition.**

*Foreign government information* as used in these guidelines means:

(a) Information provided by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(b) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

**§ 2002.3 Scope.**

(a) These guidelines apply to foreign government information that has been received or classified by the United States Government or its agents, and has been incorporated into records determined by the Archivist of the United States to have permanent value.

(b) Atomic energy information (including information originated prior to 1947 and not marked as such; information received from the United Kingdom or Canada marked "Atomic," or information received from NATO marked "Atomal") that is defined and identified as "Restricted Data" or "Formerly Restricted Data" in Sections 11y and 142d of the Atomic Energy Act of 1954, as amended, is outside the scope of these guidelines. Such information is not subject to systematic review and may not be automatically downgraded

or declassified. Any document containing information within the definition of "Restricted Data" or "Formerly Restricted Data" that is not so marked shall be referred to the Department of Energy Office of Classification for review and appropriate marking, except for licensing and related regulatory matters which shall be referred to the Division of Security, U.S. Nuclear Regulatory Commission.

#### § 2002.4 Responsibilities.

(a) Foreign government information transferred to the General Services Administration for accession into the National Archives of the United States shall be reviewed by the Archivist of the United States for declassification in accordance with Executive Order 12356, the directives of the Information Security Oversight Office, these general guidelines, and any specific systematic declassification guidelines provided by the agency with declassification authority over the information.

(b) Accessioned foreign government information in file series concerning intelligence activities (including special activities), or intelligence sources or methods created after 1945, and cryptology records created after 1945, shall be subject to review by the Archivist for declassification as it becomes 50 years old. All other accessioned foreign government information shall be subject to review by the Archivist for declassification as it becomes 30 years old.

(c) Agency heads who have declassification jurisdiction over permanently valuable foreign government information in agency records not yet accessioned into the National Archives of the United States are encouraged to conduct systematic declassification reviews of it in accordance with the time limits specified in paragraph (b) of this section. These reviews shall comply with the provisions of Executive Order 12356, the directives of the Information Security Oversight Office, these general guidelines, and specific agency systematic review guidelines that have been issued in consultation with the Archivist of the United States and the ISOO Director.

(d) Foreign government information falling within any of the categories

listed in §2002.6 of these guidelines shall be declassified or downgraded only upon specific authorization of the agency that has declassification authority over it. Such information shall be referred to the responsible agency(ies) for review. Information so referred shall remain classified until the responsible agency(ies) has declassified it. If the responsible agency cannot be readily identified from the document or material, referral shall be made in accordance with §2002.7 of these guidelines.

(e) When required, the agency having declassification authority over the information shall consult with foreign governments concerning its proposed declassification.

#### § 2002.5 Effect of publication.

(a) Foreign government information shall be considered declassified when published in an unclassified United States Government executive branch publication (e.g., the *Foreign Relations of the United States* series) or when cleared for publication by United States Government executive branch officials authorized to declassify the information; or if officially published as unclassified by the foreign government(s) or international organization(s) of governments that furnished the information unless the fact of the U.S. Government's possession of the information requires continued protection.

(b) The unofficial publication, in the United States or abroad, of foreign government information contained in classified United States or foreign documents does not in or of itself constitute or permit the declassification of such information. Although prior unofficial publication is a factor to be considered in the systematic review process, there may be valid reasons for continued protection of the information which could preclude its declassification. In particular, the classification status of foreign government information which concerns or derives from intelligence activities (including special activities), intelligence sources or methods shall not be affected by any unofficial publication of identical or related information. The final declassification determination shall be made

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by the agency or agencies having declassification authority over it.

### § 2002.6 Categories requiring item-by-item review.

Foreign government information falling into the following categories require item-by-item review for declassification by agencies having declassification authority over it.

(a) Information exempted from declassification under any joint arrangement evidenced by an exchange of letters, memorandum of understanding, or other written record, with the foreign government or international organization of governments, or element(s) thereof, that furnished the information. Questions concerning the existence or applicability of such arrangements shall be referred to the agency or agencies having declassification authority over the records under review.

(b) Information related to the safeguarding of nuclear materials or facilities, foreign and domestic, including but not necessarily limited to vulnerabilities and vulnerability assessments of nuclear facilities and Special Nuclear Material.

(c) Nuclear arms control information (see also paragraph (k) of this section).

(d) Information regarding foreign nuclear programs (other than “Restricted Data” and “Formerly Restricted Data”), such as:

- (1) Nuclear weapons testing.
- (2) Nuclear weapons storage and stockpile.
- (3) Nuclear weapons effects, hardness, and vulnerability.
- (4) Nuclear weapons safety.
- (5) Cooperation in nuclear programs including, but not limited to, peaceful and military applications of nuclear energy.

(6) Exploration, production and import of uranium and thorium from foreign countries.

(e) Information concerning intelligence activities (including special activities) or intelligence or counterintelligence sources or methods including but not limited to intelligence, counterintelligence and covert action programs, plans, policies, operations, or assessments; or which would reveal or identify:

(1) Any present, past or prospective undercover personnel, installation, unit, or clandestine human agent, of the United States or a foreign government;

(2) Any present, past or prospective method, procedure, mode, technique or requirement used or being developed by the United States or by foreign governments, individually or in combination to produce, acquire, transmit, analyze, correlate, assess, evaluate or process intelligence or counterintelligence, or to support an intelligence or counterintelligence source, operation, or activity;

(3) The present, past or proposed existence of any joint United States and foreign government intelligence, counterintelligence, or covert action activity or facility, or the nature thereof. (For guidance on protecting United States foreign intelligence liaison relationships, see Director of Central Intelligence Directive “Security Classification Guidance and Foreign Security Services,” effective January 18, 1982.)

(f) Information that could result in or lead to actions which would place an individual in jeopardy attributable to disclosure of the information, including but not limited to:

(1) Information identifying any individual or organization as a confidential source of intelligence or counterintelligence.

(2) Information revealing the identity of an intelligence or covert action agent or agents.

(3) Information identifying any individual or organization used to develop or support intelligence, counterintelligence, or covert action agents, sources or activities.

(g) Information about foreign individuals, organizations or events which if disclosed, could be expected to:

(1) Adversely affect a foreign country’s or international organization’s present or future relations with the United States.

(2) Adversely affect present or future confidential exchanges between the United States and any foreign government or international organization of governments.

(h) Information related to plans (whether executed or not, whether presented in whole or in part), programs,

operations, negotiations, and assessments shared by one or several foreign governments with the United States, including but not limited to those involving the territory, political regime or government of another country, and which if disclosed could be expected to adversely affect the conduct of U.S. foreign policy or the conduct of another country's foreign policy with respect to a third country or countries. This item would include contingency plans, plans for covert political, military or paramilitary activities or operations by a foreign government acting alone or jointly with the United States Government, and positions or actions taken by a foreign government alone or jointly with the United States concerning border disputes or other territorial issues.

(i) Information concerning arrangements with respect to foreign basing of cryptologic operations and/or foreign policy considerations relating thereto.

(j) Scientific information such as that concerning space, energy, climatology, communications, maritime, undersea, and polar projects, the disclosure of which could be expected to adversely affect current and/or future exchanges of such information between the United States and any foreign governments or international organizations of governments.

(k) Information on foreign policy aspects of nuclear matters, the disclosure of which could be expected to adversely affect cooperation between one or more foreign governments and the United States Government.

(l) Information concerning physical security arrangements, plans or equipment for safeguarding United States Government embassies, missions or facilities abroad, the disclosure of which could reasonably be expected to increase the vulnerability of such facilities to penetration, attack, take-over, and the like.

(m) Nuclear propulsion information.

(n) Information concerning the establishment, operation, and support of nuclear detection systems.

(o) Information concerning or revealing military or paramilitary escape, evasion, cover or deception plans, procedures, and techniques, whether executed or not.

(p) Information which could adversely affect the current or future usefulness of military defense policies, programs, weapons systems, operations, or plans.

(q) Information concerning research, development, testing and evaluation of chemical and biological weapons and defense systems; specific identification of chemical and biological agents and munitions; and chemical and biological warfare plans.

(r) Technical information concerning weapons systems and military equipment that reveals the capabilities, limitations, or vulnerabilities of such systems, or equipment that could be exploited to destroy, counter, render ineffective or neutralize such weapons or equipment.

(s) Cryptologic information, including cryptologic sources and methods, currently in use. This includes information concerning or revealing the processes, techniques, operations, and scope of signals intelligence comprising communications intelligence, electronics intelligence, and telemetry intelligence, the cryptosecurity and emission security components of communications security, and the communications portion of cover and deception plans.

(t) Information concerning electronic warfare (electronic warfare support measures, electronic counter-countermeasures) or related activities, including but not necessarily limited to:

(1) Nomenclature, functions, technical characteristics or descriptions of communications and electronic equipment, its employment/development, and its association with weapons systems or military operations.

(2) The processes, techniques, operations or scope of activities involved in the acquisition, analysis and evaluation of such information, and the degree of success achieved by the above processes, techniques, operations or activities.

(u) Present, past or proposed protective intelligence information relating to the sources, plans, techniques, equipment and methods used in carrying out assigned duties of protecting United States Government officials or other protectees abroad and foreign officials while in the United States or

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United States possessions. This includes information concerning the identification of witnesses, informants and persons suspected of being dangerous to persons under protection.

(v) Information on deposits of foreign official institutions in United States banks and on foreign official institutions' holdings, purchases and sales of long-term marketable securities in the United States.

(w) Information concerning economic and policy studies and sensitive assessments or analyses of economic conditions, policies or activities of foreign countries or international organizations of governments received through the Multilateral Development Banks and Funds or through the International Monetary Fund (IMF) and the Organization for Economic Cooperation and Development (OECD).

(x) Information described in paragraphs (a) through (w) contained in correspondence, transcripts, memoranda of conversation, or minutes of meetings between the President of the United States or the Vice President of the United States and foreign government officials.

(y) Information described in paragraphs (a) through (w) contained in documents originated by or sent to the Assistant to the President for National Security Affairs, his Deputy, members of the National Security Council staff, or any other person on the White House or the Executive Office of the President staffs performing national security functions.

(z) Federal agency originated documents bearing Presidential, National Security Council, or White House or Executive Office of the President staffs' comments relating to categories of information described in paragraphs (a) through (w).

(aa) Information as described in paragraphs (a) through (w) contained in correspondence to or from the President or the Vice President, including background briefing memoranda and talking points for meetings between the President or the Vice President and foreign government officials, and discussions of the timing and purposes of such meetings.

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(bb) Information as described in paragraphs (a) through (w) contained in agency message traffic originated by White House or Executive Office of the President staff members but sent through agency communication networks.

### § 2002.7 Referral and decision.

(a) When the identity of the agencies having declassification authority over foreign government information is not apparent to the agency holding the information, or when reviewing officials do not possess the requisite expertise, the information shall be referred for review and a declassification determination as follows:

(1) Categories 2002.6 (b) through (d), Department of Energy or Nuclear Regulatory Commission (as appropriate).

(2) Categories 2002.6 (e) and (f), Central Intelligence Agency.

(3) Categories 2002.6 (g) through (l), Department of State.

(4) Categories 2002.6 (m) through (t), Department of Defense.

(5) Categories 2002.6 (u) and (w), Department of the Treasury.

(6) Categories 2002.6 (x) through (bb), National Security Council.

(b) Referrals to agencies shall include copies of the documents containing the foreign government information. Agencies shall review the referred documents and promptly notify the Archivist of the United States of the declassification determination. Forwarded copies of the documents shall be marked to reflect any downgrading or declassification action and shall be returned to the National Archives.

### § 2002.8 Downgrading.

Foreign government information classified "Top Secret" may be downgraded to "Secret" after 30 years unless the agency with declassification authority over it determines on its own, or after consultation, as appropriate, with the foreign government or international organization of governments which furnished the information, that it requires continued protection at the "Top Secret" level.